IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WP(C).No. 16816 of 2007(B)

PETITIONER:

P.NARAYANAN, AGED 56, S/O.PARUKUTTY AMMA, PUTHENVEETTIL HOUSE P.O.PERAMANGALAM, THRISSUR DISTRICT.

BY ADV. SRI.C.PRABIN BENNY

RESPONDENTS:

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1. **RETURNING OFFICER, MUNDAR SERVICE CO-OPERATIVE BANK LTD, R.189,P.O.ANJOOR, MUNDUR.**
2. **THE SECRETARY, MUNDAR SERVICE CO-OPERATIVE BANK LTD, R.189,P.O.ANJOOR, MUNDUR.**
3. **THE STATE CO-OPERATIVE ELECTION COMMISSIONER,THIRUVANANTHAPURAM.**
4. **THE REGISTRAR OF CO-OPERATIVE SOCIETIES, TRIVANDRUM, REPRESENTED BY THE GOVERNMENT PLEADER,HGIH COURT OF KERALA.**
5. **THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, THRISSUR, REP. BY THE GOVERNMENT PLEADER,HGIH COURT OF KERALA.**
6. **V.R.BABU,CHAIRMAN, ELECTION COMMITTEE, EDATHUPAKSHA JANADIPATHYA SAHAKARANA MUNNANI, P.O.ANJOOR, MUNDUR,THRISSUR DISTRICT.**
7. **P.I.SHEKARAN, CHAIRMAN, ELECTION COMMITTEE, SAHAKARANA SAMRAKSHANA MUNNANI, P.O.KAIPARAMBU,THRISSUR DISTRICT.**
8. **C.V.KURIAKOSE, SECRETARY, KERALA CONGRESS DIST.COMMITTEE,P.O.AMJOOR, MUNDUR, THRISSUR DISTRICT.**

9. M.A.KRISHNANKUTTY,MANDALAM SECRETARY, BHARATHEEYA JANATHA PARTY,P.O.AMJOOR, MUNDUR,THRISSUR DISTRICT.

10. M.N.RAMAKRISHNAN, CONSTITUTENCY PRESIDENT, NATIONAL CONGRESS PARTY, P.O.ANJOOR,MUNDUR,THRISSUR DISTRICT.

11. C.K.PUSHKARAN, LOCAL COMMITTEE SECRETARY,COMMUNIT MARXIT PARTY, P.O.PERAMANGALAM,THRISSUR DISTRICT.

BY GOVT. PLEADER SRI.P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

W.P.(C).No.16816 OF 2007

Dated this the 4th day of June, 2007

JUDGMENT

Petitioner has approached this court seeking the appointment of a practising lawyer of this court as Observer of the election scheduled to be held on 10/06/2007 as per Ext.P1. Ext.P1 is the notification issued proclaiming election to the committee of the co-operative society. Petitioner claims to be a member of the respondent society. Case of the petitioner is that for the last six years (counsel for the petitioner submits that it is 8 years) the bank is headed by the Board of Directors who were in the panel of LDF. It is his case that heavy appointments were made. It is stated that the office bearers of the bank belong to the LDF and all most all staff of the Bank are the officer bearers of the LDF and its subsidiary unions. It is further stated that the returning officer is a NGO union district leader. Complaint of the petitioner is that there will be no fair and free election. unless an advocate commissioner

is appointed. Petitioner relies on the the decision reported in **Moran Mar Thoma Mathews v. Most Rev. Thomas Mar D. Metropolitan** (2002(1)KLT 125(SC). According to the petitioner, the returning officer is likely to be biased. He refers to the rejection of nomination of those in the panel of UDF. He also refers to the experience in the previous election and contends that such experience will be repeated in this election also. To prevent it, he submits that it is highly necessary that prayers be granted.

2. Learned Government Pleader on the other hand countered this by submitting that there is no provision in the rule to appoint an observer. He would submit that it is open to the party aggrieved by the result of the election to approach the appropriate authority under Section 69 and in which proceeding there would be opportunity to adduce evidence if any illegality is committed by the returning officer.

3. I feel that the matter is covered by the judgment of the learned Single Judge reported in **Narayanan Nambiar v. State** (1993(2)KLT 625). Therein, the learned Single Judge considered the matter and took the view that this court cannot order such

appointment of any observer. The court also took the view that the appointment of observers will create a parallel machinery to supervise the function of the statutory machinery, thereby interfering with the administration of law. I hold that the dictum in 2002 (1) KLT 125 may not apply to the facts of this case.

4. I am sure that the Returning officer in this case will not give rise to any complaint as voiced by the petitioner. He should remind himself that he is a statutory authority. Evey statutory authority must exercise its powers bonafide. He should not take sides with the political party in power. The achievement of goal of democracy in a co-operative society, he should remind himself, depends considerably on the stand he takes which must undoubtedly in tune with the requirements of the Statute, both in the Act and in the Rules. I am sure that the Returning Officer will act in a manner which is fair and legal. Subject to this observation, the writ petition fails and it is dismissed.

K.M.JOSEPH
JUDGE

sv.